



Signed: August 01, 2008

EDWARD D. JELLEN
U.S. Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA

In re Case No. 08-42957 J
KOMAKI ROMAN HAYLE, Chapter 13
Debtor. /

MEMORANDUM DECISION

The above debtor has filed motions requesting this court to reconsider its Order Vacating Automatic Stay filed July 24, 2008, and requesting that the motion to reconsider be heard on shortened time. The court will deny both motions.

On July 11, 2008, a hearing was held on the motion by Pamela and Ronald Thompson, as trustees ("Creditors"), for relief from the automatic stay provided by Bankruptcy Code § 362(a) to foreclose a deed of trust in their favor. The motion alleged that there was no equity in the subject property, that the Creditors were not adequately protected, that the debtor was not making payments on the note secured by the subject deed of trust, that the debtor had not

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1 complied with numerous requirements of chapter 13, and had not
2 maintained insurance on the subject property.

3 The debtor opposed the motion, and requested time to consult
4 with counsel. The court allowed the debtor 20 days within which to
5 do so, and ruled that absent further court order, the creditor could
6 foreclose its deed of trust any time on or after July 31, 2008. The
7 order entered July 24, 2008 so provided.

8 Approximately 24 hours before the scheduled foreclosure sale,
9 the debtor requested dismissal of the chapter 13, then changed his
10 mind, and filed the subject motions. The motions allege that the
11 debtor has maintained insurance, that Creditor is owed less than
12 what Creditor alleges, and that the debtor plans on filing
13 additional schedules in the case.

14 The court will deny the debtor's motions. First, the court has
15 been advised that the foreclosure sale took place. If this is so,
16 the motions are moot.

17 Even if the foreclosure sale has not taken place, the motions
18 are not well grounded. The debtor has failed to file numerous
19 required documents (or filed some forms with all spaces left blank)
20 notwithstanding numerous warnings as to these deficiencies. The
21 debtor has not made payments to the Creditors. The debtor has not
22 filed the certificate of credit counseling required by Bankruptcy
23 Code § 109(h), or a statement of exigent circumstances, and
24 therefore, may not even be eligible for relief herein.

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1 For the foregoing reasons, the court will issue its order
2 denying the debtor's motions.

3 **END OF ORDER**
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COURT SERVICE LIST

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